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## Sample Comfort/Status Letters

### *Sample No Previous Superfund Interest Letter*

Addressee

Re: [Insert name or description of property/site]

Dear [Insert name of party]:

I am writing in response to your letter dated --/--/-- concerning the property referenced above. My response is based upon the facts presently known to the U.S. Environmental Protection Agency (EPA) and is provided solely for informational purposes.

The federal Superfund Program, established to cleanup hazardous waste sites, is administered by EPA in cooperation with individual states and local and tribal governments. Sites are discovered by citizens, businesses, and local, state or federal agencies. When a potential hazardous waste site is reported, EPA records the available information in its database, the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). [NOTE: if a region practices pre-CERCLIS screening procedures, please include language indicating that the procedures exists, whether or not the property is in the process of being "pre-screened", and what this means to the inquirer. Adjustments may be needed to the sample language contained in this letter.] The fact that a site is listed in CERCLIS, however, does not mean that an EPA response action will occur at the site or that ownership or operation of the site is restricted or may be associated with liability. The fact that a property is not listed in CERCLIS does mean that EPA is not currently planning to take any action under the federal Superfund program to evaluate the site for inclusion on the National Priorities List (NPL) or to conduct removal or remediation activities.

The above-referenced property was not identified in a search of the active and archived records in the CERCLIS database. Please note that its absence from CERCLIS does not represent a finding that there are no environmental conditions at this property that require action or that are being addressed under another federal or state program. The absence of the property from CERCLIS means that, at this time, EPA is not aware of any information indicating that there has been a release or threat of release of hazardous substances at or from the facility that needs to be assessed by the federal Superfund program and that no such assessment has been performed by EPA in the past. I encourage you to contact [insert name of state or local agency] to determine if they have information regarding the property and its environmental condition. [Regions also are encouraged to check with other program offices to determine whether EPA is addressing this site under another statute such as RCRA].

If you would like more comprehensive information on current or historical CERCLIS data or to request an additional search, please contact the National Technical Information Service (NTIS), a publishing clearinghouse for government information. The address is: U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (703) 487-4650; fax: (703) 321-8547.) CERCLIS information is also available on the Internet at <http://www.epa.gov/superfund/index.html#Products>. Should you have any further questions about Superfund, please feel free to contact me at [insert phone number/address].

Sincerely,

Regional Contact

cc: State contact

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## *Sample No Current Superfund Interest Letter*

Addressee

Re: [Insert name or description of property]

Dear [Insert name of party]:

I am writing in response to your letter dated --/-- concerning the property referenced above. My response is based upon the facts presently known to the United States Environmental Protection Agency (EPA) and is provided solely for informational purposes. For the reasons stated below, EPA does not presently contemplate additional Superfund action for this property.

In response to growing concern over health and environmental risks posed by hazardous waste sites, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), establishing the Superfund program to clean up these sites. The Superfund program is implemented by EPA in cooperation with individual states and local and tribal governments. Sites are discovered by citizens, businesses, and local, state, or federal agencies. After a potential hazardous waste site is reported to EPA, the available information is recorded in the Comprehensive Environmental Response and Liability Information System (CERCLIS), EPA's data management system for Superfund. Sites are added to CERCLIS when EPA believes that there may be contamination that warrants action under Superfund.

### I. [FOR ARCHIVED SITES]

If, after an initial investigation, EPA determines that the contamination does not warrant Superfund action, or if an appropriate Superfund response action has been completed, EPA will archive that site from CERCLIS. This means that EPA believes no further federal response is appropriate. Archived sites may be returned to the CERCLIS site inventory if new information necessitating further Superfund consideration is discovered.

EPA has archived the above-referenced property from the CERCLIS site inventory because [choose one of the following (a, b, or c) to complete the sentence]

[a.], following site evaluation activities, EPA determined that either no contamination was found or conditions at the property did not warrant further federal Superfund involvement.

[b.] a federal removal action was completed and no further Superfund action is planned for this property.

[c.] environmental conditions at the property are subject to requirements of [RCRA, UST, OPA, etc.], however, no further interest under the federal Superfund program is warranted. For further information concerning these requirements, please contact [name and telephone number].

[Add to previous sentence] EPA, therefore, anticipates no need to take additional Superfund enforcement, investigatory, cost recovery, or cleanup action at this archived site unless new information warranting further Superfund consideration or conditions not previously known to EPA regarding the site are discovered. EPA will maintain a dialogue with the states and will continue to refer archived sites to the states for their review and consideration. You may want to contact [insert state contact, address and telephone number] for further information.

### II. [FOR PARTIAL OR FULL DELETIONS FROM NPL OR FOR A SITE BOUNDARY SITUATION]

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CERCLIS does not describe sites in precise geographical terms primarily because the boundaries of the contamination and available information on those boundaries can be expected to change over time. Once enough information regarding the nature and extent of the release of the hazardous substances is gathered, EPA can more accurately delineate the boundaries of a site. [Choose either (a), (b) or (c)].

(a) [If the property was included in a partial deletion from the NPL]

The above-referenced property [is/appears to be] situated within the [name of NPL site] which is included on EPA's list of high priority hazardous waste CERCLIS sites known as the National Priorities List (NPL). EPA, however, has determined that no further investigatory or cleanup action is appropriate at the property under the federal Superfund program. With the [insert State Agency] concurrence, EPA has decided to delete the portion of the NPL site which contains the above-referenced property in accordance with the Agency's A Procedures for Partial Deletions at NPL Sites" (OERR Directive Number 9320.2-11, August 30, 1996).

(b) [If the property is contained within the NPL site or is defined as the NPL site and the site has been deleted from the NPL]

The identified property [is/appears to be] [select one: situated within the defined geographical borders of the [name of NPL site] or defined as the [name of the NPL site]] which is included on EPA's list of high priority hazardous waste CERCLIS sites known as the National Priorities List (NPL). EPA, however, has determined that no further investigatory or cleanup action is appropriate at the property. In consultation with the [insert State Agency], EPA has decided to delete this property from the NPL in accordance with "Deletion from the NPL" 40CFR 300.425(e).

(c) [If the property is not part of the CERCLIS site but is nearby]

The above-referenced property is located [near or adjacent to] the [name of CERCLIS Site]. At this time, [statement as to the status of the site at present time: e.g., preliminary assessment, site investigation, removal, remedial investigation or feasibility study is underway or is completed]. Based upon available information, the property is not presently considered by EPA to be a part of the [name of the CERCLIS site].

[Add to end of paragraph (a), (b), or (c)]

EPA, therefore, anticipates no need to take [any/additional] [Superfund enforcement--include if PRP search and cost recovery are complete] investigatory or cleanup action at this property unless new information warranting further Superfund consideration or conditions not previously known to EPA regarding the property are discovered. You may want to contact [insert state agency information] for further information. [If appropriate, enclose a copy of the fact sheet on the CERCLIS site].

III. [IF ADMINISTRATIVE RECORD HAS BEEN COMPILED]

EPA has compiled an administrative record for the [name of CERCLIS or NPL Site] which provides information on the nature and extent of the contamination found at the site. This record is available at EPA Region -- and at [location nearby to the site].

If you have any additional questions, or wish to discuss this information, please feel free to contact [insert EPA contact and address].

Sincerely yours,  
Regional Contact

cc: State contact

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## *Sample Federal Superfund Interest Letter*

Addressee

Re: [insert name or description of property/site] [COMMENT1]

Dear [Insert name of party]:

I am writing in response to your letter dated --/-- concerning the property referenced above. My response is based upon the facts presently known to the United States Environmental Protection Agency (EPA) and is provided solely for informational purposes.

In response to growing concern over health and environmental risks posed by hazardous waste sites, Congress passed the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and established the Superfund program to clean up these sites. The Superfund program is implemented by EPA in cooperation with individual states and local and tribal governments. Sites are discovered by citizens, businesses, and local, state and federal agencies. After a potential hazardous waste site is reported to EPA, the site-specific information is recorded in the Superfund database, the Comprehensive Environmental Response and Liability Information System (CERCLIS). Sites are added to CERCLIS when EPA believes that there may be contamination that warrants action under Superfund.

EPA initially screens a potential hazardous waste site to determine what type of action, if any, is necessary. The Superfund program may then perform a preliminary assessment and site investigation to determine whether contamination at a property is likely to require a federal cleanup response, an evaluation to determine if a short term response action to eliminate or reduce contamination is needed, and add the site to EPA's list of high priority hazardous waste sites known as the National Priorities List (NPL).

EPA is examining [and/or addressing] the property referenced above in connection with the [insert name of CERCLIS/NPL site] under the authority of CERCLA. [Insert appropriate paragraphs from Sections I and/or II below. Use III for requests regarding the applicability of a specific policy. Section IV represents the closing paragraph for all the Federal Superfund Interest letters].

### I. STATUS OF THE IDENTIFIED PROPERTY:

- a. The above-referenced property is presently part of [or is] the [insert name of site.] [Add paragraph from Section II for further information concerning the site.]
- b. The above-referenced property may be part of the [insert name of site.] [Add paragraph from Section II for further information concerning the site.]

### II. STATUS OF EPA ACTIVITIES

- a. The site has been placed in the Comprehensive Environmental Response, Compensation and Liability Information System ("CERCLIS") site inventory, but no studies or investigations have been performed to date. Accordingly, EPA has not developed sufficient information relating to the nature and extent of contamination to presently determine whether further federal action is appropriate under Superfund. Additionally, EPA has not yet determined which properties may be considered part of the site.
- b. A Superfund site evaluation is planned at the [insert name of site] to investigate possible contamination, and where it may be located. Accordingly, EPA has not yet determined which properties may be considered part of the [insert name of site.] [Add description of site evaluation activity or attach relevant documents, if available.]

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c. A Superfund site evaluation activity is underway at the [insert name of site] to investigate possible contamination, and where it may be located. Accordingly, EPA has not yet determined which properties may be considered part of the [insert name of site.] [Add description of site evaluation activity or attach relevant documents, if available.]

d. The [insert name of site] has been proposed to [or placed on] the Superfund National Priorities List ("NPL"). [Refer to and/or attach Federal Register notice.] The description of [insert name of site] contains EPA's preliminary evaluation of which properties are affected, although the actual borders of the Superfund site could change based on further information regarding the extent of contamination and appropriate remedy.

e. A Superfund Remedial Investigation/Feasibility Study (RI/FS) is planned at [insert name of site.] [Add description of RI/FS and ensuing activities or attach relevant documents, if available].

f. A Superfund Remedial Investigation/Feasibility Study (RI/FS) is underway at [insert name of site.] [Add description of RI/FS and ensuing activities or attach relevant documents, if available].

g. A Superfund Remedial Investigation/Feasibility Study (RI/FS) has been completed at [insert name of site.] [Add description of RI/FS and ensuing activities or attach relevant documents, if available].

h. EPA is planning a Superfund Remedial Design/Remedial Action (RD/RA) at [insert name of site.] [Insert pertinent information such as a description of the ROD and RD/RA, such as date of issuance of the ROD, schedule for cleanup; Fund lead or PRP implementation, cleanup progress to date; a schedule for future cleanup, especially a final completion date, cleanup levels to be achieved, and anticipated future land use of the Site, or attach relevant informational documents].

i. EPA has commenced a Superfund Remedial Design/Remedial Action (RD/RA) at [insert name of site.] [Insert pertinent information such as a description of the ROD and RD/RA, such as date of issuance of the ROD, schedule for cleanup; Fund lead or PRP implementation, cleanup progress to date; a schedule for future cleanup, especially a final completion date, cleanup levels to be achieved, and anticipated future land use of the Site, or attach relevant informational documents].

j. Superfund Remedial Design/Remedial Action (RD/RA) has been completed at [insert name of site.] [If possible provide information on cleanup achievements, whether it was PRP or Fund-lead, etc., or attach relevant informational documents, if available] A Five-year Review will [will not] be necessary at [insert name of site.] [Also, describe status with respect to deletion from the NPL.]

k. A removal action is planned at [insert name of site.] [provide information on cleanup achievements, whether it was PRP or Fund-lead, and contact number for On-Scene Coordinator, cost recovery staff, or ORC attorney, or attach relevant informational documents, if available.]

l. A removal action is ongoing at [insert name of site.] [provide information on cleanup achievements, whether it was PRP or Fund-lead, and contact number for On-Scene Coordinator, cost recovery staff, or ORC attorney, or attach relevant informational documents, if available.]

m. A removal action has been completed at [insert name of site.] [provide information on cleanup achievements, whether it was PRP or Fund-lead, and contact number for On-Scene Coordinator, cost recovery staff, or ORC attorney, or attach relevant informational documents, if available.]

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III. FOR PARTIES OR SITES COVERED BY AN EPA POLICY/STATUTE/REGULATION

Dear [Insert name of party]:

I am writing in response to your letter dated --/--/-- concerning the property referenced above. My response is based upon the facts presently known to the United States Environmental Protection Agency (EPA).

As you may know, the above-referenced property is located within or near the [insert name of CERCLIS site.] EPA is currently taking [insert description of any action that EPA is taking or plans to take and any contamination problem.]

[Choose either paragraph [a] or [b]]:

[a. For situations when a party provides information showing that 1) a project found to be in the public interest is hindered or the value of a property is affected by the potential for Superfund liability, and 2) there is no other mechanism available to adequately address the party's concerns.]

The [insert policy citation/statutory/regulatory provision], provides that EPA, in an exercise of its enforcement discretion, will not take an enforcement action against parties who meet the conditions and criteria described in the [insert policy/statute/regulation]. Based upon the information currently available to EPA, EPA believes that the [policy/statutory/regulatory provision] applies to [you/your] situation. I am enclosing a copy of the [policy/statutory or regulatory provision and fact sheet, if appropriate] for your review.

[b. For situations when a party does not provide information showing that 1) a project found to be in the public interest is hindered or the value of a property is affected by the potential for Superfund liability, and 2) there is no other mechanism available to adequately address the party's concerns, attach the appropriate policy/statutory or regulatory language and insert the following language]:

The [insert policy citation/statutory/regulatory provision], provides that EPA, in an exercise of its enforcement discretion, will not take an enforcement action against parties who meet the conditions and criteria described in the [insert policy/statute/regulation]. [EPA currently does not have enough information available to determine whether the [insert policy/statutory/regulatory citation] applies to your situation OR EPA, based upon the current information available, believes that you/your circumstances do not meet the criteria/provisions of the [policy/statute/regulation]. I, however, have enclosed a copy of the [policy/statutory or regulatory language] for your own review and determination of its applicability to you [or your situation].

IV. CLOSING PARAGRAPH

EPA hopes that the above information is useful to you. [Optional--In addition, we have included a copy of our latest fact sheet for the (insert name of site.)] Further, we direct your attention to the [insert location of site local records repository] at which EPA has placed a copy of the Administrative Record for this site. [Include for section III letters only: This letter is provided solely for informational purposes and does not provide a release from CERCLA liability.] If you have any questions, or wish to discuss this letter, please feel free to contact [insert EPA contact and address].

Sincerely,  
Regional Contact

Enclosure

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## *Sample State Action Letter*

Addressee

Re: [Insert name or description of site/property]

Dear [Insert name of party]:

I am writing in response to your letter dated --/-- concerning the property referenced above. My response is based upon the facts presently known to the United States Environmental Protection Agency (EPA) and is provided solely for informational purposes.

The problem of investigating, responding to, and cleaning property contaminated by hazardous substances is a complex one. In an effort to maximize resources and ensure timely responses, EPA and the states work together in responding to properties posing threats of environmental contamination. Although the Comprehensive Environmental Response Compensation and Liability Act (CERCLA, also known as "Superfund") is a federal law that establishes a federal program, the law also envisions and provides for state involvement at sites handled under the Superfund program. CERCLA explicitly describes scenarios under which a state may have a significant and prominent role in site activities.

### I. [INSERT THIS SECTION FOR SITES DESIGNATED STATE-LEAD IN CERCLIS]

The site about which you have inquired, [site name], is a site that falls under the federal Superfund program, but has been designated a state-lead. A state-lead designation means that although the site remains in EPA's inventory of sites and may be on EPA's list of highest priority sites, the National Priorities List (NPL), implementing responsibilities to investigate and cleanup that site rest with the state of [insert name of state]. Specifically, [insert name of state] is responsible for the day-to-day activities at the site and will ultimately recommend the cleanup for the site. EPA's role is to review some of [insert name of state]'s milestone documents, if appropriate, provide technical assistance if needed, and, in most cases, approve the final cleanup method recommended by the state. The state and EPA work together closely, pursuant to the terms of a Memorandum of Agreement (MOA) to ensure that site responses are conducted in a timely manner and that interested parties are included in site activities.

Because EPA's day-to-day role at the [insert name of site] is somewhat limited, you should check with the [your state or state's environmental program] for more detailed information on site activities. [insert name of state] is best able to provide you with detailed information about the site and public documents regarding site activity. [Regions should include the state RPM name and number, or at least the state's applicable department name and number].

### II. [INSERT THIS SECTION FOR SITES DESIGNATED ADEFERRED TO STATE AUTHORITIES PURSUANT TO EPA'S SUPERFUND DEFERRAL POLICY]

The site about which you have inquired, [site name], is a site that falls under the federal Superfund program, but for which EPA does not have the day-to-day responsibility. Specifically, the [site name] site is not proposed for or listed on the NPL. EPA has agreed not to propose or list the [site name] site on the NPL while the state of [name of state] addresses the environmental conditions at the property under its own state authorities. While the [site name] cleanup is being conducted, EPA intends to act in accordance with "Guidance on Deferral of NPL Listing Determinations While States Oversee Response Actions" (OSWER Dir. 9375.6-11, May 3, 1995). A copy of this guidance is enclosed for your review and should help you to better understand EPA's role and intentions at sites for which activities are deferred to state authorities.

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III. [INSERT FOR A SITE DESIGNATED "DEFERRED" THAT NOW HAS BEEN ARCHIVED]

The conditions at the above-referenced property were addressed by [name of state] pursuant to EPA's "Guidance on Deferral of NPL Listing Determinations While States Oversee Response Actions" (OSWER Dir. 9375.6-11, May 3, 1995). Upon completion of cleanup activities at the [site name], the property has been removed from EPA's inventory of hazardous waste sites, the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). Consistent with EPA's state deferral guidance, EPA does not intend to further consider the property for listing on the NPL [or to take additional Superfund enforcement, investigatory, cost recovery, or clean up action at the property] unless EPA receives new information about site conditions that warrants reconsideration.

A copy of EPA's "A Guidance on Deferral of NPL Listing Determinations While States Oversee Response Actions" is enclosed for your review, so that you may better understand the nature of EPA's role at the [site name]. For detailed information about site activities and conditions, you may wish to contact [insert name of state or state's environmental department], the agency responsible for overseeing activities on the property.

IV. [INSERT FOR A SITE ADDRESSED UNDER A STATE VCP THAT HAS AN MOA IN PLACE]

The site about which you have inquired, [site name], is a site contained in EPA's inventory of hazardous waste sites, the Comprehensive Environmental Response, Compensation, and Liability Information System. The [site name] site is not, however, proposed for or listed on EPA's list of highest priority sites, the National Priorities List (NPL). EPA and the state of [insert name of state] have agreed, pursuant to a memorandum of agreement (MOA) between the two agencies, to place the site under the authorities of [insert name of state]'s Voluntary Cleanup Program. For specific details regarding the activities at [site name] or the MOA, you may wish to contact the [state name or department responsible for implementing the MOA].

If you have any additional questions, or wish to discuss this information, please feel free to contact [insert EPA contact and address].

Sincerely yours,  
Regional Contact

cc: State contact

[COMMENT1](Insert name of Site and identification of property identified in the initial request letter)

[COMMENT2]Select the following paragraph(s) under (A) which apply. Add property-specific information as appropriate.

[COMMENT3] [If appropriate, attach and refer to depiction of Site to illustrate]